

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MID-MISSOURI WASTE SYSTEMS, LLC,)	
)	
Plaintiff,)	
)	
vs.)	
)	No. 07-233-CV-W-FJG
)	
LAFARGE NORTH AMERICA, INC.,)	
)	
Defendant.)	

ORDER

James D. Menefee – November 11, 2008
Plaintiff's Objections

Defendant's Designations		<u>Mid-Missouri's Objection(s)</u>	<u>Ruling</u>
<u>Page Line(s)</u>	<u>Page Line(s)</u>		
11 22	12 4	Non-responsive, foundation, speculation.	Overruled
19 1-2		Only a question designated, no answer.	Sustained
22 6-25		Foundation, speculation.	Sustained
23 24	24 4	Leading, foundation.	Sustained
24 22	25 8	Foundation, speculation.	Overruled
30 14	31 22	Foundation, speculation.	Overruled
59 12-15		Foundation, speculation.	Sustained
59 18-22		Foundation, speculation.	Sustained
67 3-8		Foundation, calls for legal conclusion.	Overruled
67 11-16		Foundation, calls for legal conclusion.	Overruled
67 19-21		Foundation, calls for legal conclusion.	Overruled

67 24	68 2	Foundation, calls for legal conclusion.	Overruled
68 6-7		Foundation, calls for legal conclusion.	Overruled
71 3-6		No question pending/designated.	Overruled
86 3-4		Witness never answered this question.	Overruled
89 11-13		Answer not designated.	Sustained
92 7-10		Relevance.	Sustained

James Menefee - November 12, 2008
Defendant's Objections

Plaintiff's Designations

P Line(s) P Line(s)
20 12-14

Lafarge's Objection(s)

Object: Relevance: 1997 is pre MMWS's involvement testimony regarding an alleged breach in 1997 is irrelevant to the current litigation. Furthermore, Mr. Menefee was unable to recall if he ever told Lafarge that they were in breach. There has been no testimony presented or documents produced to evidence that he notified them of a breach. Menefee never claimed that Lafarge was in breach.

Ruling

Sustained

20 16	21 3	Object: Relevance: 1997 is pre MMWS's involvement testimony regarding an alleged breach in 1997 is irrelevant to the current litigation. Furthermore, Mr. Menefee was unable to recall if he ever told Lafarge that they were in breach. There has been no testimony presented or documents produced to evidence that he notified them of a breach. Menefee never claimed that Lafarge was in breach.	Sustained
44 23	45 1	Objection: Witness didn't understand the question as he testify to later. Objection to form of question, lack of foundation.	Overruled

66 21	67 2	Objection to form as to what does "okay" mean. Answer isn't responsive to the question, it's argumentative and is unsupported by the facts and testimony in this matter. Objection as to relevance.	Overruled
79 16-18		Objection: Mis-states the testimony and evidence in this matter.	Sustained
80 5-20		Objection: Mis-states the testimony and evidence in this matter.	Sustained

Jane Witheridge – November 24, 2008
Plaintiff's Objections

Defendant's Designations		<u>Mid-Missouri's Objection(s)</u>	<u>Ruling</u>
<u>Page</u>	<u>Line(s)</u>		
23	16	Foundation, speculation, relevance.	Sustained
24	4		
24	7-18	Foundation, speculation, relevance.	Sustained
37	5-6	Answer to question is not designated.	Sustained
37	11	Question is not designated.	Sustained
40	12-20	Foundation, speculation.	Overruled
41	14-16	No answer to question posed.	Overruled
41	18	Foundation, speculation.	Overruled
44	1		
52	3-7	Question is vague and confusing. Foundation, speculation.	Overruled
52	15-17	Question is vague and confusing. Foundation, speculation.	Overruled
65	14	Foundation, speculation, hearsay.	Overruled
66	15		
81	3-9	Foundation, speculation, relevance.	Sustained
81	15	Foundation, speculation, relevance.	Sustained
82	14	Foundation, speculation, hearsay, vague and ambiguous question.	Overruled
84	19		
85	14	Foundation, speculation, hearsay, leading.	Overruled
86	15		
87	13-16	Foundation, speculation, hearsay, leading.	Overruled
87	20	Foundation, speculation, hearsay, leading.	Overruled
88	20	Foundation, speculation, hearsay, leading.	Overruled
90	3		
94	4	Foundation, speculation, vague and ambiguous, no question designated.	Sustained
95	2		
106	18	Foundation, speculation.	Sustained
107	4		

Defendant's Designations		Mid-Missouri's Objection(s)	Ruling
Page	Line(s)	Page	Line(s)
111	14	114	5
		Vague and confusing questions, foundation, speculation, narrative answer.	Overruled
120	14-22	Relevance.	Sustained
122	24	123	13
		Foundation, speculation, no answer designated.	Sustained
124	2	125	5
		Foundation, speculation, vague and confusing questions, leading.	Sustained
135	16	136	6
		Foundation, speculation.	Sustained
152	15-17	Vague and ambiguous question, foundation, speculation.	Overruled
152	20	153	3
		Vague and ambiguous question, foundation, speculation.	Overruled
153	16	154	1
		Foundation, speculation, hearsay.	Overruled
154	5-14	Foundation, speculation, hearsay.	Overruled
160	4-18	Foundation, speculation.	Overruled
160	22	162	10
		Foundation, speculation, hearsay.	Overruled
200	13	201	16
		Foundation, speculation.	Overruled
201	18	202	2
		Foundation, speculation.	Overruled

Jane Witheridge - November 24, 2008
Defendant's Objections

<u>Plaintiff's Designations</u>		<u>Lafarge's Objection(s)</u>	<u>Ruling</u>
P Line(s)	P Line(s)		
55 15	56 5	Objection: Calls for a legal conclusion.	Sustained
65 4-5		Objection. Answer is not designated.	Overruled
176 14-22		Objection: Calls for a legal conclusion. Lack of foundation. Object to Form. Compound.	Sustained
177 4-13		Objection: Calls for a legal conclusion. Lack of foundation. Object to Form. Compound.	Sustained
178 10-24		Objection: Form. Compound. Lack of foundation. Vague. Ambiguous.	Sustained
179 2-8		Objection, calls for a legal conclusion, lack of foundation.	Sustained
179 9-16		Object to Form-Compound. Seeks a legal conclusion.	Sustained
179 23	180 14	Objection: Form. Compound. Lack of foundation. Calls for a legal conclusion. Mis-states witnesses prior testimony. Questioning on re-direct is also leading, coaching.	Overruled
180 12	181 2	Objection: Compound. Mis-states prior testimony. Leading, coaching. Seeks legal conclusion as to whether those activities constitute mining.	Overruled
181 13	185 6	Objection: Calls for a legal conclusion. Compound. Mis-states prior testimony. Calls for speculation and use of a hypothetical.	Sustained
185 7	185 19	Objection: Form. Compound. Calls for speculation. Uses a hypothetical and calls for speculation. Seeks a legal conclusion.	Sustained

<u>Plaintiff's Designations</u>		<u>Lafarge's Objection(s)</u>	<u>Ruling</u>
P Line(s)	P Line(s)		
185 20	186 9	Objection: Form. Compound. Lack of foundation.	Sustained
186 16-24		Objection: Mis-states the contents of the document. Lack of foundation.	Overruled
187 3-11		Objection: Lack of foundation, object to form-compound.	Overruled
187 12	188 3	Objection: Seeks a legal conclusion, lack of foundation, object to form. Compound.	Sustained
188 20	189 10	Objection: Form. Vague. Ambiguous. Doesn't define what he means by use of the term "concern."	Overruled
189 22	190 7	Objection: Form. Vague. Ambiguous. Doesn't define what he means by use of the term "concern."	Overruled
189 11-15		Objection, is seeking expert testimony.	Sustained
189 22	190 7	Objection: Form-compound. Calls for speculation. Lack of foundation.	Overruled
191 5-13		Objection: Calls for a legal conclusion. Form. Leading.	Sustained
195 24	196 24	Objection: Form. Leading. Mis-states the contents of the document. Seeks a legal conclusion. Lack of foundation.	Sustained
197 22	200 8	Objection: Mis-states the contents of the document. Form-leading questions on direct exam. Calls for a hypothetical and speculation. Seeks a legal conclusion.	Sustained

Date: 5/15/09
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge